



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JUNE 21, 2022

IN THE MATTER OF:

Appeal Board No. 621575

PRESENT: JUNE F. O'NEILL, MEMBER

The Department of Labor issued the initial determination holding the claimant eligible to receive benefits effective beginning January 25, 2021. The employer requested a hearing and objected contending that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant and on behalf of the employer. By decision filed February 9, 2022, (), the Administrative Law Judge sustained the initial determination and overruled the employer's objection.

The employer appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant worked for a home care agency, beginning December 9, 2019. Her last position was that of a direct support professional home care worker. The claimant's schedule was from

3:00 pm to 1:00 pm, Monday through Friday. The claimant would also pick up extra shifts.

On January 10, 2021, the claimant interviewed with a different employer. On that date, the claimant was offered a fulltime position working as a personal aide for the elderly and those with dementia beginning March 25, 2021, which

she accepted.

The claimant then provided the home care agency with a note dated January 11, 2021, asking for a demotion to an on-call or part-time position. The claimant informed the home care agency that if the new position was not available, she was handing in her two-week resignation effective January 26, 2021. The home care agency did not have an on-call or part time position available. The claimant left this employment on January 26, 2021.

The claimant started the new employment on March 25, 2020. She sustained a back injury on

March 28, 2020, and left her new employment.

OPINION: The credible evidence establishes that the claimant quit her home care position on January 26, 2021, and that she did not begin her new job until March 26, 2021, two months later. While it is good cause to quit a job to accept new employment, the Board has held that taking a break of more a month between jobs can be considered unreasonable and constitute a separation without good cause. (Appeal Board No. 571251) We now look at whether claimant had good cause to quit her employment with the home health care agency two months before the new job started.

The claimant contends that she quit, due to the stress of working full-time. The claimant has provided no proof that her health was being affected by the full-time job. She did not advise the home health care agency on January 11, 2021, that this was the reason she needed an on-call or part-time schedule. She did not choose to continue to work her regular hours and stop picking up extra shifts, thus reducing her load. It is of note that the claimant quit one full-time job for another full-time job in the health care field as a personal aide. The claimant could have continued to work for the employer herein for two additional months. We therefore conclude that the claimant did not have good cause to quit her employment with the health care agency herein and that she is disqualified from benefits.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination holding the claimant eligible to receive benefits is overruled.

The employer's objection, that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause, is sustained, effective January 26, 2021, is sustained.

The claimant is disqualified from receiving benefits, effective January 26, 2021, until the claimant has subsequently worked in employment and earned remuneration at least equal to 5 times the claimant's weekly benefit rate for all claims filed on or before January 1, 2014, or until the claimant has subsequently worked in employment and earned remuneration at least equal to 10 times the claimant's weekly benefit rate for all claims filed after January 1, 2014. Employment and earnings from non-covered, excluded or self-employment will not count.

The claimant is denied benefits with respect to the issues decided herein.

JAE:GWJ
JUNE F. O'NEILL, MEMBER